

House Study Bill 11 - Introduced

SENATE/HOUSE FILE _____

BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to the civil commitment of sexually violent
2 predators.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 229A.2, Code 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 7A. *"Presently confined"* means
4 incarceration or detention in a correctional facility, a
5 rehabilitation camp, a residential facility, a county jail, a
6 halfway house, or any other comparable facility, including but
7 not limited to placement at such a facility as a condition of
8 probation, parole, or special sentence following conviction for
9 a sexually violent offense.

10 Sec. 2. Section 229A.2, subsection 11, paragraph c, Code
11 2019, is amended to read as follows:

12 c. Sexual exploitation of a minor in violation of section
13 728.12, ~~subsection 1.~~

14 Sec. 3. Section 229A.3, Code 2019, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 6. This section shall not be construed as a
17 limit on persons subject to commitment under this chapter.

18 Sec. 4. Section 229A.4, subsection 2, paragraph a, Code
19 2019, is amended to read as follows:

20 a. The person was convicted of a sexually violent offense
21 and ~~has been discharged after the completion of the sentence~~
22 ~~imposed for the offense~~ is no longer presently confined for
23 that offense.

24 Sec. 5. Section 229A.7, subsection 5, Code 2019, is amended
25 by adding the following new paragraph:

26 NEW PARAGRAPH. c. At trial, the court shall admit, and
27 the fact finder may rely on, the findings of an administrative
28 parole judge or other agency fact finder.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill relates to the civil commitment of sexually
33 violent predators under Code chapter 229A.

34 Under current law, a "sexually violent offense" for purposes
35 of Code chapter 229A includes the crime of sexual exploitation

1 of a minor by means of employing, using, persuading, inducing,
2 enticing, coercing, soliciting, knowingly permitting, or
3 otherwise causing or attempting to cause a minor to engage in
4 a prohibited sexual act or in the simulation of a prohibited
5 sexual act which a person knows, or has reason to know, or
6 intends that the act or simulated act may be photographed,
7 filmed, or otherwise preserved in a visual depiction. The bill
8 expands the definition of "sexually violent offense" to include
9 all alternative means by which the crime of sexual exploitation
10 of a minor may be committed to include knowingly promoting
11 any material visually depicting a live performance of a minor
12 engaging in a prohibited sexual act or in the simulation of a
13 prohibited sexual act, and knowingly purchasing or possessing a
14 visual depiction of a minor engaging in a prohibited sexual act
15 or the simulation of a prohibited sexual act.

16 The bill amends Code section 229A.3 relating to notice of
17 discharge requirements imposed on an agency with jurisdiction
18 when a person who is confined due to a charge of or conviction
19 for a sexually violent offense may meet the definition of a
20 sexually violent predator and that person is to be released
21 from confinement. The bill specifies that the Code section
22 only regulates notice given to the attorney general and the
23 multidisciplinary team, and that the Code section shall not be
24 construed as a limit on persons subject to commitment under
25 Code chapter 229A.

26 The bill amends Code section 229A.4 concerning when a
27 petition alleging that a person is a sexually violent predator
28 may be filed by a prosecuting attorney or the attorney
29 general. The petition must state sufficient facts to support
30 the allegation if it appears that a person who has committed
31 a recent overt act meets any specified criteria. The bill
32 amends one of those criterion to provide that the petition may
33 allege that the person was convicted of a sexually violent
34 offense and is no longer presently confined for that offense.
35 Under the bill, presently confined means incarceration or

1 detention in a correctional facility, a rehabilitation camp, a
2 residential facility, a county jail, a halfway house, or any
3 other comparable institution, including but not limited to
4 placement at such an institution as a condition of probation,
5 parole, or special parole following conviction for a sexually
6 violent offense.

7 The bill amends Code section 229A.7 relating to trial,
8 determination, and commitment procedures. The bill provides
9 that at trial, a court shall admit, and the fact finder may
10 rely on, the findings of an administrative parole judge or
11 other agency fact finder.